

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE MEMORIAL 25

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Gail Chasey

A MEMORIAL

REQUESTING THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE TO
STUDY WHETHER TO PROPOSE INCLUDING A "VULNERABLE VICTIM"
AGGRAVATOR IN NEW MEXICO LAW FOR CRIMES AGAINST CERTAIN
PERSONS.

WHEREAS, the law often focuses on the particular qualities
of a criminal act to determine the need for punishment,
deterrence, a second chance or forgiveness; and

WHEREAS, the characteristics of the victim are also
important in the equation of society's response to a crime; and

WHEREAS, some persons may be more vulnerable to crime than
others, and some criminals are more likely to target such
potential victims precisely because they are easy prey; and

WHEREAS, the federal sentencing guidelines include the
category "vulnerable victim" to describe these victims; and

.175983.1

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
[bracketed material] = delete

1 WHEREAS, federal guidelines require that a crime against a
2 vulnerable victim include a finding that the perpetrator knew
3 or should have known that a particular individual was
4 particularly susceptible to the crime; and

5 WHEREAS, elderly or young persons can be particularly
6 categorized as vulnerable victims in some cases; and

7 WHEREAS, it is questionable whether persons with
8 developmental disabilities can be fairly included as vulnerable
9 victims for purposes of sentencing a person alleged to have
10 committed a crime; and

11 WHEREAS, other recognized vulnerable victims have been
12 children who are approached via the internet by an adult
13 masquerading as a peer; have been terminally ill cancer
14 patients defrauded by a known false cure; and have been
15 undocumented persons who are defrauded by someone who can
16 threaten deportation; and

17 WHEREAS, sometimes the criminal charged with preying on a
18 vulnerable victim is sentenced to a more severe sentence for
19 focusing on a vulnerable victim; and

20 WHEREAS, another process that takes into account the
21 status of a vulnerable victim involves getting court support
22 for a vulnerable victim who must testify;

23 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
24 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the interim
25 courts, corrections and justice committee or another interim

.175983.1

underscoring material = new
[bracketed material] = delete

1 committee be requested to take testimony on the issue of
2 defining "vulnerable victim" in the New Mexico statutes, on
3 court supports available for such victims and on the
4 consequences of adding an aggravator for those who prey on
5 vulnerable victims; and

6 BE IT FURTHER RESOLVED that the committee study the
7 problem and submit recommendations for inclusion on the agenda
8 for the second session of the forty-ninth legislature in
9 January 2010; and

10 BE IT FURTHER RESOLVED that copies of this memorial be
11 transmitted to the co-chairs of the interim legislative courts,
12 corrections and justice committee, the co-chairs of New Mexico
13 legislative council, the attorney general and the chief public
14 defender.

15 - 3 -
16
17
18
19
20
21
22
23
24
25